

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FCCI INSURANCE COMPANY,

Plaintiff,

v.

EASY MIX CONCRETE SERVICES, LLC,

Defendant.

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1:23-CV-1433-DII

**ORDER**

Before the Court is the report and recommendation of United States Magistrate Judge Dustin Howell concerning Defendant Easy Mix Concrete Services, LLC's ("Easy Mix") Motion to Dismiss, or in the Alternative Stay Certain Claims, (Dkt. 8). (R. & R., Dkt. 20). Plaintiff FCCI Insurance Company ("FCCI") timely filed objections to the report and recommendation, (Objs., Dkt. 23); Easy Mix responded to FCCI's objections, (Dkt. 26); and FCCI replied, (Dkt. 27).

A party may serve and file specific, written objections to a magistrate judge's findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C.

§ 636(b)(1)(C). Because FCCI timely objected to the report and recommendation, the Court reviews the report and recommendation *de novo*. Having done so and for the reasons given in the report and recommendation, the Court overrules FCCI's objections and adopts the report and recommendation as its own order.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Dustin Howell, (Dkt. 20), is **ADOPTED**.

**IT IS FURTHER ORDERED** that Easy Mix's Motion to Dismiss, or in the Alternative Stay Certain Claims, (Dkt. 8), is **GRANTED IN PART** as to the motion to stay.

**IT IS FURTHER ORDERED** that FCCI's claims for declaratory relief relating to (1) its duty to indemnify the Underlying Lawsuits<sup>1</sup> and (2) its duty to defend currently non-existent lawsuits are **STAYED** until ripe.

**IT IS FURTHER ORDERED** that the parties shall submit quarterly joint status reports to apprise the Court of the status of the Underlying Lawsuits, with the first status report due **on or before September 25, 2024**.

**SIGNED** on June 25, 2024.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Underlying Lawsuits are currently pending in Burnet, Gillespie, Hays, Travis, and Williamson Counties, Texas, as well as in this Court.